

STEPTOE & JOHNSON <sup>LLP</sup>  
ATTORNEYS AT LAW

226025

David H Coburn  
202 429 8063  
dcoburn@steptoe.com

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Tel 202 429 3000  
Fax 202 429 3902  
steptoe.com

**FILED**

NOV 18 2009

**SURFACE  
TRANSPORTATION BOARD**

November 18, 2009

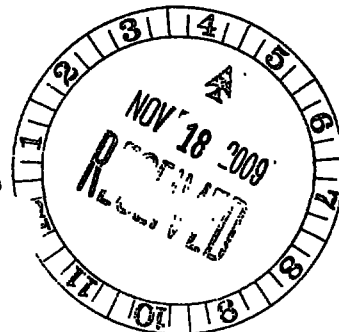
Via HAND DELIVERY

Chief, Section of Administration,  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423

ENTERED  
Office of Proceedings

NOV 18 2009

Part of  
Public Record



**Re: Finance Docket No. 35321, KM Railways, LLC—Acquisition and Operation  
Exemption—Old Augusta Railroad, LLC**

To Whom It May Concern:

Enclosed for filing in the above-captioned docket are the original plus ten copies of a Notice of Exemption by KM Railways, LLC. Also enclosed is a check for the filing fee of \$ 1,800 and a CD containing the Notice in Word format and PDF format. An additional 20 copies of the relevant maps are also included.

Please date stamp the additional copy of this Notice and return it with our messenger.

If you have any questions, please feel free to contact us.

Sincerely,

**FEE RECEIVED**

NOV 18 2009

**SURFACE  
TRANSPORTATION BOARD**

Enclosures

David Coburn (KCB)  
David H. Coburn

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

\_\_\_\_\_  
**STB Finance Docket No. 35321**  
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**KM RAILWAYS, LLC –  
ACQUISITION AND OPERATION EXEMPTION –  
OLD AUGUSTA RAILROAD, LLC**  
\_\_\_\_\_

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.31(a)**  
\_\_\_\_\_

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David H. Coburn  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
dcoburn@steptoe.com  
202-429-8063

Attorney for KM Railways, LLC

Dated: November 18, 2009

**FEE RECEIVED**

NOV 18 2009

**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35321**

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**KM RAILWAYS, LLC –  
ACQUISITION AND OPERATION EXEMPTION –  
OLD AUGUSTA RAILROAD, LLC**

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**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1150.31(a)**

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Pursuant to the regulations of this Board at 49 C.F.R. § 1150.31(a), KM Railways, LLC (“KMR” or “Applicant”), a newly created Class III rail carrier and Delaware limited liability company, files this Verified Notice of Exemption from requirements of 49 U.S.C. § 10902, to acquire 2.5 miles of rail trackage in Perry County, Mississippi and lease the rail trackage to Old Augusta Railroad, LLC (“OAR”), which currently owns and operates the track. Based on projected revenues on the 2.5 miles of rail trackage, KMR expects to remain a Class III rail carrier after consummation of the transaction proposed herein.

In accordance with the requirements of 49 C.F.R. § 1150.33, KMR submits the following information:

**Name and Address of Applicant: 49 C.F.R. § 1150.33(a)**

The full name and address of the rail carrier applicant is as follows:

KM Railways, LLC  
4111 East 37<sup>th</sup> Street North  
Wichita, KS 67220

**Applicant's Representative: 49 C.F.R. § 1150.33(b)**

Any questions concerning this Notice should be sent to KMR's representative at the following address:

David H. Coburn  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
dcoburn@steptoe.com  
202-429-8063

**Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)**

KM Strategic Investments, LLC ("KMSI"), the parent of KMR, organized KMR on October 27, 2009. On November 18, 2009, KMR executed an Asset Purchase Agreement to acquire, among other things, certain of the assets of the OAR, including the track over which the OAR operates and certain easement rights to the property on which the track is located. KMR will also acquire certain rights to the property underlying the track. KMR then lease the track and other physical assets needed to operate the railroad back to OAR. KMR will retain a common carrier obligation to serve the line.

**Operation of the Property: 49 C.F.R. § 1150.33(d)**

OAR will provide rail common carrier service on KMR's 2.5 miles of track pursuant to a lease agreement with OAR. A verified notice of exemption is being concurrently filed with respect to the lease transaction in *Old Augusta Railroad, LLC – Lease and Operation Exemption—KM Railways, LLC*, STB Finance Docket No. 35319.

**Summary of the Transaction: 49 C.F.R. § 1150.33(e)**

The name and address of the railroad transferring the subject property:

Old Augusta Railroad, LLC  
P.O. Box 329  
Buck Creek Road  
New Augusta, MS 39462  
Attn: Al Fordham  
(601) 964-7318

OAR is a Class III rail common carrier in Perry County, Mississippi that operates a line extending approximately 2.5 miles from New Augusta, Mississippi (Station No. FSAC 10) to Augusta, Mississippi (Station No. FSAC 20). There are no branch lines and no mile posts. The OAR transports freight between a paper mill and a Canadian National Railway line. *See Old Augusta R.R., LLC—Acquisition & Operation Exemption—Assets of Old Augusta R.R. Co.*, STB Finance Docket No. 34493 (served Apr. 21, 2004). Pursuant to a November 18, 2009 Asset Purchase Agreement, KMR will acquire the short-line railroad currently owned and operated by OAR. KMR will also acquire certain rights to the property underlying the track. All rail operating assets transferred in ownership to KMR will then be leased back to the OAR, and OAR will operate the short-line railroad. This transaction is an internal reorganization designed for corporate purposes.

Subject to obtaining the necessary regulatory approvals, the transaction is expected to close on or after December 18, 2009.

**Maps of Subject Property: 49 C.F.R. § 1150.33(f)**

A map of the rail line is attached hereto as Exhibit A to this Notice.

**Class III Revenue Certification: 49 C.F.R. § 1150.33(g)**

The projected annual revenue of KMR as a result of this transaction will not exceed the annual revenue of a Class III railroad, and will not result in the creation of a Class II or Class I rail carrier that would require processing under 49 C.F.R. § 1150.45. The Applicant's certification is attached hereto as Exhibit B.

**Interchange Commitments: 49 C.F.R. § 1150.33(h)**

The proposed acquisition of the 2.5 miles of rail trackage by KMR does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

**Historic Preservation:**

Applicant's acquisition of 2.5 miles of rail trackage from OAR is exempt from historic preservation reporting requirements. The proposed transaction is an internal reorganization for corporate reasons, and there will be no planned change in the operations presently conducted by OAR over the 2.5 miles of rail trackage.

**Environmental Impacts:**

The proposed transaction will not result in any changes in carrier operations. Accordingly, no environmental documentation is required under the criteria of 49 C.F.R. § 1105.6(c)(2) because the proposed transaction continues rail service on existing tracks and will not cause operating changes that exceed the thresholds in 49 C.F.R. § 1105.7(e)(4) or (5).

**Caption Summary: 49 C.F.R. § 1105.34**

A caption summary of the proposed transaction suitable for publication in the Federal Register is attached hereto as Exhibit C.

Respectfully submitted,

David Coburn (kb)

David H. Coburn  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036  
dcoburn@steptoe.com  
202-429-8063

Attorney for KM Railways, LLC

November 18, 2009


VERIFICATION

State of Kansas )

County of Sedgwick )


Daniel J. Murray, being duly sworn, deposes and says that he is the President of KM Railways, LLC; that he has read the foregoing Notice of Exemption, that he has personal knowledge of the facts asserted therein, and that he certifies the same are true as stated.

Executed on November 18, 2009.

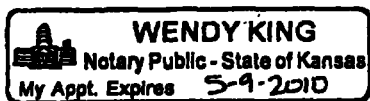
  
\_\_\_\_\_  
Daniel J. Murray  
President  
KM Railways, LLC

SUBSCRIBED AND SWORN TO

Before me this 18 th day of November, 2009

  
\_\_\_\_\_  
Notary Public

My commission expires: 5/9/2010





**EXHIBIT A**

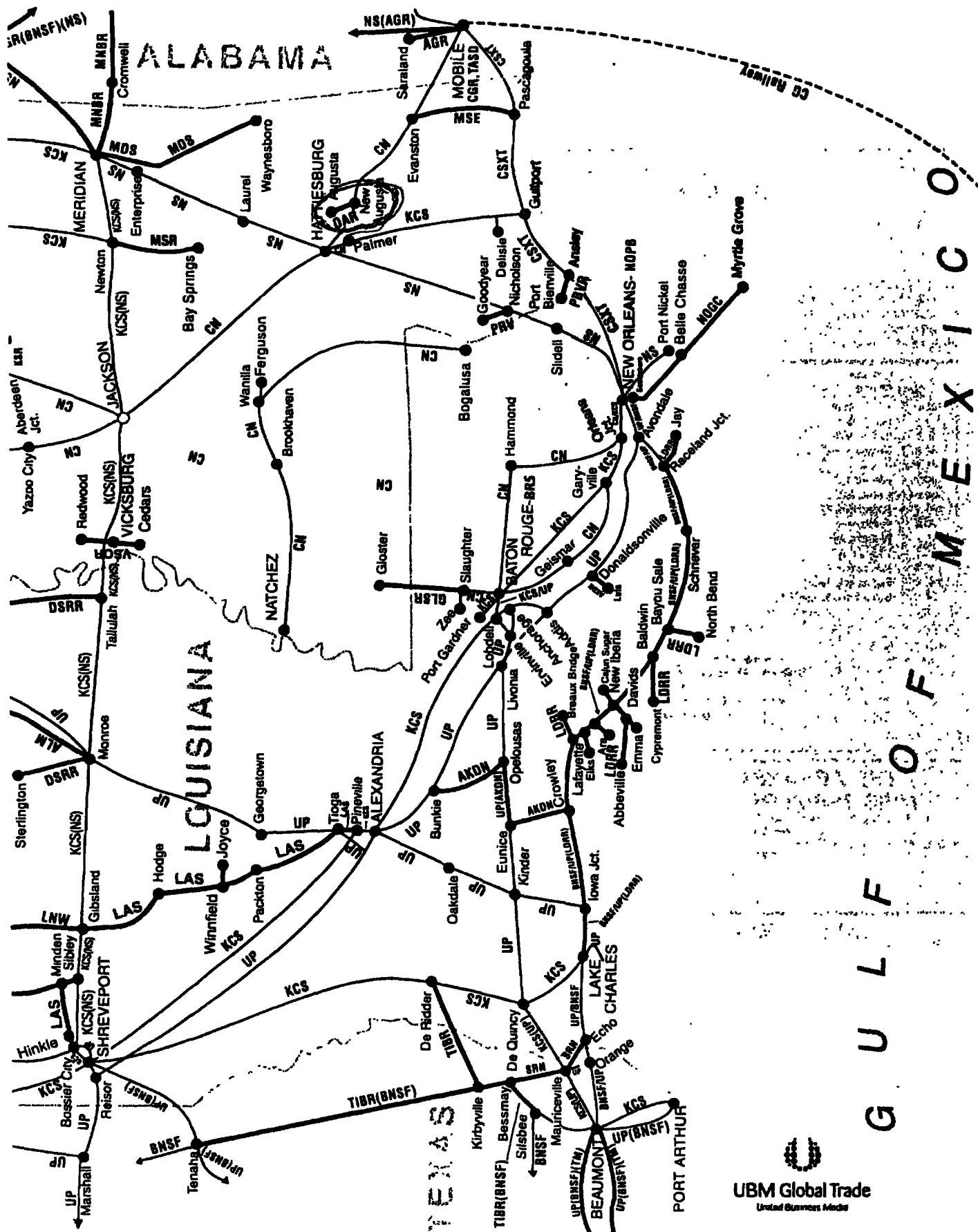
**ATTACHED MAP OF KM RAILWAYS, LLC**

**RAIL LINE**

KM RAILWAYS, LLC

REGION 12

AR/LA/MS

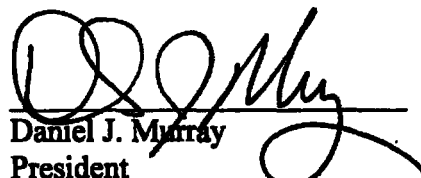


**EXHIBIT B**

**CERTIFICATION**

## CERTIFICATION

Daniel J. Murray, President of KM Railways, LLC, being duly sworn certifies that the projected revenues for KM Railways, LLC upon consummation of the proposed transaction will not result in creation of a Class I or Class II rail carrier and the projected annual revenue will not exceed \$32,113,449.



Daniel J. Murray  
President  
KM Railways, LLC

Dated: November 18, 2009

## **EXHIBIT C**

### **ATTACHED NOTICE OF EXEMPTION**

Surface Transportation Board

*Notice of Exemption*

STB Finance Docket No. 35321

KM RAILWAYS, LLC—Acquisition and Operation Exemption – Old Augusta Railroad LLC

KM Railways, LLC (“KMR”), a newly created Class III short line railroad, has filed a Verified Notice of Exemption under 49 C.F.R. § 1150.31 *et seq.* to acquire and operate certain of the assets of Old Augusta Railroad, LLC, including an approximately 2.5 miles of rail line.

The rail line extends from Augusta, Mississippi to New Augusta, Mississippi, where it connects to the tracks of Canadian National Railway Company. Old Augusta Railroad, LLC will operate the rail line under an operating agreement with, and on behalf of, KMR. KMR expects to consummate the transaction on or after December 18, 2009.

An original and ten (10) copies of all pleadings and comments in this proceeding, STB Finance Docket No. 35321, must be filed with the Surface Transportation Board, Chief, Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423. In addition, a copy must be served on KMR’s representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., Washington, DC 20036.

This Notice is filed under 49 C.F.R. § 1150.31. If the Notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. However, the filing of a petition to revoke will not automatically stay the transaction.

Decided: \_\_\_\_\_

By the Board, Rachel D. Campbell, Office of Proceedings

Cynthia Brown

Chief, Section of Administration, Office of Proceedings